



# Improving Legal Aid Systems: Approaches and Takeaways

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Access to justice for the most vulnerable populations is often provided through legal aid. The term legal aid refers here to legal, judicial and court-related assistance, as well as services provided by legal aid centers or legal clinics. The definition, scope and rights around legal aid vary across the world. This paper provides practical insights for government actors and legal aid providers on improving legal aid systems, drawing on desk research and key informant interviews with practitioners and experts across Sierra Leone, Kenya, South Africa and Senegal. These four countries were selected for their proximity and comparability to the Sahel region, and for their innovative approaches to implementing legal aid. The key informant interviews were conducted with representatives from the Association des Juristes Sénégalaises, Kenya's Kituo Cha Sheria, ProBono.org of South Africa as well as Lady Ellen Women's Aid Foundation and Campaign for Human Rights and Development International, both of Sierra Leone.

The practices collected can be classified under three different categories: (I) administrative and legal framework, (II) quality of the legal aid system, and (III) financing the system. They are intended to highlight approaches that have proven effective in establishing and strengthening legal aid systems, while also referencing specific examples from the various country case studies, as well as flagging risks and challenges that can arise and undermine the impact of those systems.

# I. Administrative & Legal Framework

## 1. Recognise and guarantee the formal right to legal aid

The extent to which the right to legal aid is guaranteed by national law differs widely from one country to another. Research shows that a formal framework enshrining the right to legal aid allows for the standardisation of legal services, ensuring consistency, quality and accountability for legal aid providers across a country. Formalisation therefore shifts legal aid from a patchwork of services to a structured, sustainable, and rights-based component of the justice system, thereby harmonising the landscape. This is particularly poignant for marginalised and vulnerable communities who are often already excluded from the justice system.

Guaranteeing the right to legal aid can be done through government action in various ways, including passing a law or amending the constitution, and can go beyond codifying the right to legal aid to creating a coordinating body, defining the type and scope of services, and regulating legal aid providers. Structuring the professionalisation and training of legal aid practitioners not only provides greater clarity and harmonisation, but also contributes to an increase in public confidence and trust in justice institutions. Additionally, a legal aid provider's formal status can guarantee proper funding mechanisms and increase the capacity to scale.

A formal system also paves the way for greater monitoring and evaluating of legal aid efforts across a country. Data and insight collected in a structured and centralised manner can then inform policy decisions and guarantee proper allocation of resources.

On the other hand, the absence of a formal legal aid system poses significant challenges for both legal aid providers and justice seekers, leaving access to justice for the most vulnerable uncertain and without guaranteed protection. When legal aid organisations lack formal legal status, their legitimacy is threatened, rendering them ineligible for certain funding mechanisms and limiting their capacity to scale. Ultimately, the formalisation of a legal aid system serves as a strategic investment in justice.

### Country profiles:

The evolution of legal aid in **Kenya** provides a clear lesson on the power of constitutional reform to anchor justice services as a fundamental right. Originally fragmented and dominated by civil society organisations, Kenya's state sponsored aid was minimal. Formal efforts began in 1998 with the establishment of a Legal Aid Steering Committee, followed by a program to raise public awareness and lay the groundwork for legislation. Kenya's 2010 constitution then established access to justice as an enforceable right for all citizens and guaranteed state-funded legal council. The constitutional mandate drove the enactment of the 2016 Legal Aid Act, heavily pushed for by civil society organisations, which provides affordable, accessible and sustainable legal aid, with state-funded lawyers nationwide and significant support for community initiatives. The Act seeks to establish a legal and institutional framework to promote access to justice, and did so by creating a coordinating body, while also formally recognising paralegals, and setting forth a national plan to operationalise the new framework. The primary mandate of the Act was to provide an affordable and accessible national legal aid system. Although there is a strong legal framework in Kenya, the allocation of funds has been slow, and the lack of subsidiary legislation for procedural implementation has created a regulatory gap.

**South Africa's** 1996 constitution enshrined the right to legal aid in criminal and children's civil matters as a fundamental, enforceable right. The Legal Aid South Africa Act 39 of 2014 then transformed the existing Legal Aid Board, shifting from an over-reliance on private lawyers to a model centred on employing salaried lawyers. The Board is an independent national public

entity and partners with private lawyers, salaried practitioners, clinics, CSOs and community-based paralegals. It is now the largest provider of free legal aid in South Africa, delivering primarily criminal legal advice and representation.

The formalisation of **Sierra Leone's** legal aid through its 2012 Legal Aid Act has brought more consistency, structure and clarity on how legal aid is delivered in Sierra Leone. It has significantly increased the amount of services provided to vulnerable Sierra Leoneans, particularly those in rural areas and those unlawfully detained. The Legal Aid Board was created pursuant to the 2012 Act and serves to provide quality, accessible and affordable legal aid services to low income Sierra Leoneans. Additionally, the board's accreditation of legal aid providers allows CSOs to formally collaborate within the system, and mandates providers to annually present an annual report (including cases received, resolved, referred) to the board, allowing for greater opportunities to monitor and evaluate their work.

#### **A word of caution:**

In certain countries, legal aid services are provided by a range of actors including the government, civil society organisations, universities, and other providers. A fragmented legal aid mandate without a clear definition of legal aid can cause lack of coordination between these different actors and can lead to inefficiency and confusion for justice seekers.

Additionally, it is essential not to overlook the implementation phase of legal reform. Progressive legislation may remain ineffective if it is not supported by clear provisions, adequate funding and practical enforcement mechanisms.

## **2. Broaden the definition and scope of legal aid services**

Within the formalisation of legal aid is the opportunity to more broadly define legal aid services. Legal aid traditionally refers to the provision of legal services by lawyers to indigent individuals in criminal cases. Legal services are usually provided by state-funded attorneys, private practitioners, or on a pro bono basis.

Our research has revealed a broader definition of legal aid is often applied, and services include court representation but also legal advice, legal awareness and empowerment including assistance in understanding legal rights and obligations, alternative dispute resolution mechanisms, community outreach and the provision of paralegal services. Beyond lawyers, legal aid providers also include paralegals, CSOs, community leaders and university clinics. Their services can also extend beyond the scope of criminal matters, to include civil, business and administrative disputes. Adopting a broader definition of legal aid can help reduce the justice gap and ensure a more encompassing provision of services.

#### **Country profiles:**

The **South African** government had initially structured its legal aid scheme around pro bono attorneys and advocates. Those professionals would receive referrals and provide free legal services, but that model was not sustainable because it relied on pro bono participation and could not meet the growing demand for legal assistance. The country adapted to a mixed model has proven effective in combining salaried practitioners with private lawyers and law clinics.

In **Kenya**, legal aid services can legally be provided by a range of providers including: an advocate operating under the pro bono programme of the law society of Kenya, an accredited paralegal, a firm of advocates, a public benefit organisation or faith based organisation, a university or other institution operating legal aid clinics, or a government agency accredited under the act to provide legal aid.

**A word of caution:**

The lack of awareness around eligibility for legal aid services represents significant hurdles, particularly for the most vulnerable populations. Poor outreach around the availability of the different types of legal aid services contributes to this challenge and is important to take into account when formalising a broader scope of legal aid.

Additionally, focusing on legal aid exclusively as it relates to criminal defense can create the risk of a civil justice gap. In many countries, there is a significant civil justice gap driven by constitutional imperatives and resource constraints because criminal defense is prioritised, leaving a large unmet need for civil legal aid in life-altering areas like family, housing, and employment law.

**3. Ensure an inclusive and independent coordination body (ecosystem)**

Given that multiple actors from different sectors are often involved in the provision of legal aid, the establishment of a coordinating body that includes all relevant stakeholders has proven successful in improving legal aid services. This structure can be created and run by the government, civil society, or other legal aid providers. Such a network establishes a forum for dialogue and coordination among all actors in the justice sector.

**Country profiles:**

**Sierra Leone's** government Legal Aid Board brings in civil society organisations from across the country, allowing legal aid providers to establish a network and identify partners who work in the field, giving them the opportunity to coordinate on certain issues. Additionally in Sierra Leone, a number of CSOs have come together to form a National Coalition for Committee Legal Empowerment, which has been instrumental in successfully providing legal aid in Sierra Leone. That network allows legal aid organisations to share best practices, discuss challenges and ways of improving, and exchange general experiences. Together they are able to cover a larger scope of the country and refer matters to each other so that all cases are addressed. There is a strict vetting process for becoming a member of the coalition, ensuring quality over quantity. The coalition is held to high esteem by the government, lending it legitimacy at the international level. Unfortunately, funding for the coalition is a struggle, thus limiting its regional impact.

**A word of caution:**

The independence and impartiality of the coordinating body are crucial in order to ensure equal access to justice. Independence ensures the body is not influenced by external pressure in regards to decisions surrounding legal aid. Impartiality guarantees decisions are made based on objective criteria, fostering fairness and public confidence.

**4. Opt for a clearinghouse model**

As noted above, legal aid schemes traditionally tend to struggle due to their fragmented and underresourced nature. While a legal aid provider usually provides direct legal services to individuals, a legal clearinghouse works to coordinate and connect low-income individuals with justice practitioners. It acts as an innovative and centralised mechanism that connects vulnerable populations with high quality legal services. By streamlining services, a legal clearinghouse ensures a more efficient and effective provision of legal aid services. This model allows for a wide range of partnerships including private attorneys, advocates, mediators, and university law clinics, thereby covering all types of expertise. Additionally, it can more easily maintain databases of cases and pro bono opportunities, while also identifying gaps in legal aid

and allocating resources more effectively. This enables a more efficient and strategic provision of legal services.

### **Country profiles:**

In **South Africa**, ProBono.org operates as the only legal clearinghouse model, seeing clients on a daily basis and referring cases to their panel of pro bono attorneys when necessary. The organisation serves to complement law clinics and universities. Their clients are screened through a means test, and they partner with private attorneys, advocates, mediators and universities. The clearinghouse holds legal clinics and workshops for attorneys and communities. It is registered with the Legal Practice Council (The Legal Aid body) and reports on all of their activities annually.

## **II. Quality of the system:**

### **5. Leverage existing networks to improve quality of legal aid**

The legal aid community is broad and diverse. Many civil society organisations have been rendering legal aid services for years, and often in challenging situations. Their deep knowledge of the context, established local networks and practical experience can provide a wealth of information for a national government looking to set up or improve its legal aid system. These organisations have also earned the trust of their communities, so partnering with them fosters shared ownership and strengthens the overall justice ecosystem.

For legal aid providers, there is an opportunity to convene and collaborate with each other in a way that can strengthen the delivery, coordination and impact of legal services across a country. Such a convening can take the shape of a coalition for example, and allow providers to share best practices, critical information and lessons learned, as well as exchange strategies and identify gaps in services, leading to an overall improvement in the quality of services. The communication and collaboration lead to a more efficient allocation of resources and a broader geographic reach, therefore increasing access to legal aid.

A coalition also creates the opportunity to more easily engage with government actors, donors and other stakeholders. Rather than acting alone, the providers can align their efforts and push for necessary reforms.

Additionally, existing international networks offer an opportunity to connect with like-minded partners across borders, exchange knowledge, and expand their impact at regional and global levels. Legal aid providers' membership in these organisations, which provides a global stage for the country, can incentivise governments to make the necessary policy changes for better access to justice.

### **Country profiles:**

KITUO is a reputable legal aid organisation in **Kenya** that provides pro bono legal services to vulnerable communities through advocacy, networking, lobbying, legal aid education, representation and research. Founded in 1973, it was for a time the only organisation that provided pro bono legal services, starting as a legal aid desk and growing into a multifaceted organisation. KITUO's existing presence and legal aid work was instrumental in advocating for Kenya's Legal Aid Act, an experience contributing significantly to the effective formalisation of legal aid in Kenya. Additionally, KITUO has a large database of volunteer advocates who are

passionate about access to justice. When a lawyer is newly admitted and looking for an organisation to learn from, they will turn to KITUO, and for its part the organisation is intentional about recruiting and training their advocates. Leveraging the time and experience of existing lawyers to support the legal aid work contributes to a more efficient and effective legal aid system.

## 6. Build a strong reputation

A solid reputation is the foundation of a legal aid provider's credibility, visibility, and long-term viability. It helps to gain and maintain the trust of the people they serve, particularly in those communities skeptical of the formal justice system.

A well-regarded provider who offers quality services is also more likely to retain community support and adapt as needed over time, particularly when challenges arise, such as political changes or shifts in funding.

Donors, governments and other stakeholders are more inclined to support those organisations with a history of effectiveness. Reputation can therefore be a key factor in securing funding and scaling operations. A respected legal aid organisation can also play an active role in shaping laws and policies, participating in national dialogues and advocating for systemic change.

### Country profiles:

**Senegal's** *Association des Juristes Sénégalaises* has built a strong reputation over the past 50 years. The quality of the work speaks for itself, and the association is so widely respected that it rarely has to submit funding proposals. Donors now approach AJS because of its proven track record. The services are widely sought through word of mouth, primarily because of the success of its past projects. The association works with local communities and is very sensitive to the differing contexts within the country. The impact of its work is visible, particularly in the rural areas of Senegal. Additionally, its staff is thoroughly trained, and young members of AJS are motivated and respect their elders, ensuring intergenerational succession. AJS also provides comprehensive and intentional training to its paralegals who are known and respected in their communities.

## 7. Foster trust between the government and legal aid providers

A strong, trusting relationship between the government and legal aid providers is key to the successful implementation of legal aid services across a country. Government will is essential, and a shared vision of working towards increased access to justice will provide space for collaboration and the provision of successful legal aid services. Depending on the system of government, the lawmaking process involves formal procedures and informal political dynamics, which create opportunities for collaboration. Legal aid providers can seize the opportunity and help shape the success of policy reforms.

Additionally, although governments may not always allocate sufficient resources to adequately fund legal aid organisations, they can still play an important supportive role by formally recognising and endorsing organisations that have demonstrated competence and effectiveness in delivering legal aid services. Such recognition can provide donors, development partners, and stakeholders with reassurance that these organisations are credible, accountable, and capable of delivering services on behalf of the government. This underscores the importance of fostering trust and cooperation between governments and legal aid providers, as

strong institutional relationships enhance both the legitimacy and sustainability of legal aid services.

### **Country profiles:**

**Senegal's** *Association des Juristes Sénégalaises (AJS)*, or Association of Senegalese Women Jurists/Lawyers, has fostered a strong relationship with the Senegalese government, which has been a crucial part of the organisation's success. It has been invited as a member of the reflection framework on access to land in Senegal and is regularly asked to contribute to legislative bills, as well as speak to and formally train parliamentarians and elected officials. The association has also exchanged valuable experiences and practices with other legal aid organisations in the surrounding region.

In **Kenya**, KITUO has a strong relationship with the judiciary. Agreements in place allow the Kenyan courts to refer cases to KITUO, for example, when there has been discrimination. Additionally, KITUO sits on court committees, where it can raise any issues or challenges that are encountered by the organisation during their representation of clients. This allows for direct feedback to the judiciary.

In **South Africa**, ProBono.org has earned the respect of the judiciary in a number of ways. The organisation's physical proximity to the constitutional court is intentional, for example. Understanding the ecosystem and building alliances is essential for impact and their partnerships are mutually beneficial.

## **8. Ensure access to legal aid across regions and populations**

Marginalised populations are often the ones most affected by lack of access to legal aid. Due to physical distance, transportation costs, legal costs, language, lack of awareness or other barriers, guaranteeing legal aid across regions ensures access to justice for those who most need it. Many legal aid providers follow a means test model, assessing eligibility by proof of income or inability to pay for services. Others intentionally work with rural populations to ensure broader reach.

### **Country Profiles:**

In **Sierra Leone**, the legal aid organisation Lady Ellen Women's Aid Foundation (LEWAF) has an empowerment program designed to bring gender protection laws to the community level. Many women live in rural areas with limited access to education and are unaware of their rights under the law, whether related to inheritance, land or divorce. LEWAF worked to train over a thousand women as community based justice advocates. Those advocates then went back to their rural communities to raise awareness and educate women on their rights, leading to increased protection and abuse prevention.

### **A word of caution:**

Many legal aid services usually remain heavily concentrated in urban areas, leaving rural and marginalised populations underserved. This forces CSOs to fill the gaps and can create a two-tiered justice system.

The fixed income thresholds of a means test in determining eligibility for legal aid can create a "missing middle" of people who earn too much to qualify for aid but are too poor to afford a private lawyer.

Additionally, a rapid push toward digital justice solutions to increase access to justice for marginalised populations can backfire and contribute to an emerging digital divide. The shift to virtual courts, for example, risks leaving vulnerable populations behind. Many citizens lack internet access, technology, or digital literacy to engage with these platforms, creating new and significant barriers to justice for the very communities legal aid aims to serve.

Finally, a number of legal aid organisations are centered on advocating for women's rights. Many have successfully campaigned and contributed to a large number of initiatives toward improving women's rights. Culturally, however, women still face violence, stigmatisation and retaliation for turning to legal aid, and are often reluctant to seek help. There is therefore a significant gap in the documentation of their problems.

## **9. Establish a formal and flexible system to train and evaluate paralegals**

For governments facing gaps in legal service delivery, particularly in underserved or remote areas of the country, investing in a paralegal model by incorporating it into the national legal aid scheme and leveraging informal justice mechanisms can be a practical and impactful solution. Community-based paralegals often come from the areas they serve and are therefore more culturally aware and have a greater understanding of the priorities of local populations. Often, local populations are not concerned with the formal legal system but would rather preserve relationships and avoid prolonged conflict.

Paralegals enjoy greater trust and legitimacy, where the formal justice system is often perceived as inaccessible and unjust. They often play a crucial role in educating their communities and helping them understand and assert their rights. This form of legal empowerment is especially relevant for women and minority groups and helps to prevent disputes before they arise.

In practice, it has been shown that the majority of disputes can be resolved with paralegals, therefore reducing the burden on formal courts and accelerating the dispute resolution process.

### **Country profiles:**

**Sierra Leone's** paralegal model seeks to bring justice to the doorstep of all Sierra Leoneans, including those in the most far reaching communities. The country's Legal Aid Board formally defines, recognises and coordinates paralegals. They can be government paralegals or work for CSOs and other legal aid providers. As part of the accreditation process, legal aid providers must show that their paralegals underwent the training program developed by the LAB. Each organisation's accreditation with the LAB subsequently automatically extends to its paralegals. In order to ensure trust and avoid threats from the respective local authorities, paralegals are carefully selected and trained, recruited from local communities to ensure they are connected with other members of their communities. Paralegal offices are free and accessible to justice seekers, providing a wide range of services at a much lower cost than lawyers. The vast majority of complaints are resolved through alternative dispute resolution, and in the alternative, lawyers will step in to provide legal representation in the formal court system. This model has proven successful in the country.

In **Kenya**, the definition and requirements of a paralegal are included in the Legal Aid Act and require the completion of a one year course and examination by the Council of Legal Education. Ensuring adequate training without imposing financial or other constraints on the community is a challenge. KITUO works closely with the paralegal society of Kenya, provides education on alternative justice, mediation, e-filing systems, and trains paralegals on how to build capacity and financial sustainability so they learn to sustain themselves without having to exclusively rely on donor funding. Some examples of this include how to fundraise for laptops or how to build a

justice center. In a community justice center in the North of Kenya, for example, paralegals are trained to create an annual workplan, track the number of clients and prepare monthly reports so as to identify any gaps. This data can then be used to attract donors. KITUO's finance team will conduct financial sustainability training for paralegals and train them on how to draft proposals, or charge their local community to access their computers.

#### **A word of caution:**

Maintaining consistent service quality services across a vast, often decentralised network can be difficult. High caseloads can pressure practitioners and compromise the quality of representation. Effectively coordinating the many different state and non-state providers remains a complex task, and the lack of comprehensive, independent quality assurance mechanisms is cause for concern. Standards of quality and coordination of paralegals must be clear.

While the formal recognition of paralegals is positive, the mandated accreditation process is often costly, long and prohibitive for many experienced community paralegals. The imposition of strict requirements for the recognition of paralegals can create bottlenecks for instruction and certification. This can also create a disconnect with decades of effective, on-the-ground training provided by CSOs.

## **10. Collecter et analyser les données de manière responsable**

A centralised case management system, ideally hosted by the government, is essential for legal aid organisations and governments alike. It improves efficiency, fosters better coordination, increases transparency and amplifies the overall impact of justice delivery. By systematically tracking metrics such as the number of clients served, types of claims handled, and resolution rates, legal aid providers can effectively measure their performance and demonstrate their value. Using the collected data to conduct cost benefit analyses can also help quantify both the financial savings and the broader economic impact of legal aid services.

Due to the sensitive and confidential nature of the data, names and identifying information must not be shared, and all data should be anonymised. Additionally, access to the database should be restricted to authorised individuals only. This data can then serve as a solid basis for donor proposals. The government can also leverage this information to make informed policy decisions and allocate resources more strategically.

#### **Country profiles:**

In **Senegal**, a particular strength of the *Association des Juristes Sénégalaise* is its database, which allows cases to be listed and centralised. The cases are classified according to their nature (e.g. abuse, divorce, rape, etc.), and data on age range, location, and type of aggressor are also available. A GPS tool makes it possible to identify the type of case that has been registered in a specific region. This allows AJS to identify which regions are most in need of legal aid services, and determine whether and which problems have been resolved. Additionally, AJS produces regular reports highlighting this data, and sharing numbers but no names or identifying factors. Due to the sensitive nature of the information, only the manager of each 'boutique', or legal aid clinic, can access the database. The numbers (without identities) are shared with both donors and government actors.

**Sierra Leone's** government has managed to track the number of people who have benefited from legal aid services, including information on their gender, age and type of service received. The number of people represented by the legal aid board is also tracked, as is the number of people benefiting from alternative dispute resolution or mediation in civil matters by the board,

as well as those who received legal education through community or school outreach. Additionally, LEWAF also tracks the number and types of cases handled, and can identify certain trends, including whether and when reporting drops.

In **South Africa**, ProBono.org recently implemented a digital case management platform to analyse their statistics (number, type, distribution of cases), and quantify pro bono hours in monetary terms. By monetising their work, they can more easily raise awareness and showcase their impact within the social justice network.

#### **A word of caution:**

Identity protection is essential in collecting data, particularly because the populations accessing these services are already some of the most vulnerable. Recognising the need and risks associated with divulging personal information is crucial.

Data collection is expensive and requires a significant amount of time and resources. Often there is little to no data available from the government or from CSOs on the quality or impact of legal aid services. Moreover, little information is available on the success and impact of legal aid providers. This is in part because there is no government budget allocated toward investigating the impact. These challenges make it difficult to assess whether the legal aid system is operating in a fair, effective and accessible manner.

A central system hosted by a government institution but populated by legal aid organisations can provide valuable data and insight. A decentralised system makes it more difficult to collect data and measure impact.

Another point to consider is that in many countries, women are still reluctant to denounce or seek out legal aid out of fear of violence, stigmatisation and retaliation. There can therefore be an underdocumentation of problems. It is crucial to take this into account when gathering data.

## **III. Financing the system**

### **11. Allocate public resources to legal aid through funding and physical infrastructure, and coordinate support from donors**

A dedicated government budget for legal aid is essential for the sustainability and scalability of legal aid services. Our research found that best practices in this area remain limited and underdeveloped. Without sufficient state funding, a legal aid system remains dependent on donor support, jeopardising its long-term sustainability. The absence of a stable budget also makes it difficult to scale up.

Additionally, there is a risk of shrinking donor engagement. A legal aid system that suffers from recurrent budget cuts or lack of funding cannot keep pace if its responsibilities grow while its resources stagnate or shrink. This then leads directly to the rationing of justice and undermines the quality of services.

The fragmented approach of legal aid funding, which often relies on donors supporting specific, time-limited projects, can also result in financial uncertainty and instability. Enhanced coordination and alignment among donors are vital to ensure coherence and sustainability.

**Country profiles:**

In **South Africa**, the legal aid system started off as underfunded, lacking political will from the apartheid government. With time, and a movement toward democracy, the Ministry of Justice has specifically allocated a budget to legal aid.

**Kenya's** Legal Aid Act provides for a Legal Aid Fund, which is tasked with financing community paralegals and legal aid providers, paying expenses incurred and general operation costs. The fund is supported by the government, allocations, donations and grants. Funding still remains a challenge.

**A word of caution:**

Progressive policies are often championed during election campaigns and written into party promises, but once a government takes office, those policies can be pushed aside or delayed in favor of more immediate or politically convenient priorities. Changes in government and political regimes can also hinder the ability to achieve sustained and meaningful progress.

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